IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL NO.45 OF 2004

AND
WEALTH TAX APPEAL NO.46 OF 2004

The Commissioner of Income Tax ..Appellant.

V/s.

M/s.Sindoori Traders Pvt. Ltd. ..Respondent.

Mr.S.M.Shah i/b. S.S. Sarkar for appellant in both the appeals.

None for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 20TH JULY, 2007.

P.C.:-

1. In both these appeals relating to the assessment years 1997-98 and 1998-99, the revenue has raised the following common question of law:-

> " Whether on the facts and in the circumstances of the case and in law, the Tribunal is correct in allowing exclusion of hire charges on equipments and fixtures from the total wealth of the assessee for charging to wealth tax ? "

2. The only dispute in these two appeals is whether the assets held by the assessee were business assets / commercial assets and whether leasing out the

said assets changed the character of the said assets as commercial assets. The Tribunal has noted that in the income tax assessments, the said assets have been considered to be commercial assets and the expenses incurred on account of leasing out the said assets has been allowed as business expenditure. In this view of the matter, the finding of fact recorded by the Tribunal that the assets held by the assessee were business assets and the hire charges received from such business assets are liable to be excluded from the total wealth of the assessee for the charge of the wealth tax cannot be faulted.

3. Accordingly, in our opinion, no substantial question of law arises from the orders of the Tribunal.

4. In the result, both the appeals are dismissed with no order as to costs.

(F.I.REBELLO, J.)

(J.P.DEVADHAR, J.)